

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**OLD REPUBLIC LIFE INSURANCE,
AS SUBROGEE OF RICHARD
SANFORD**

v.

**CARROLL FULMER LOGISTICS
CORPORATION AND ANTHONY
BRYANT**

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CIVIL ACTION 4:15-CV-357

**DEFENDANT CARROLL FULMER LOGISTICS
CORPORATION'S NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Defendant Carroll Fulmer Logistics Corporation, and through this Notice of Removal hereby removes Cause No. 15-03028-393 filed in the 393rd District Court of Denton County, Texas, and in support thereof states as follows:

I.

This civil action is a matter over which this Court has original jurisdiction by virtue of 28 U.S.C. §1332 and is one which may be removed to this Court by Defendant Carroll Fulmer Logistics under the provisions of 28 U.S.C. §1441(b), in that it is a civil action among diverse parties who are citizens of different states, and plaintiff's claims involve an amount in controversy that exceeds \$75,000, exclusive of costs and interest. No previous application has been made for the relief requested herein.

II.

This is a subrogation action brought by Old Republic Life Insurance Company that arises out of payment of indemnity benefits to and medical expenses on behalf of Richard Sanford pursuant to a workers' compensation policy, as the claimed result of an accident that occurred on April 16, 2013 in Denton County, Texas.

III.

This action was filed on April 14, 2013 in the 393rd District Court of Denton County, Texas by Old Republic against Carroll Fulmer Logistics and John Doe. Exhibit “A.” Carroll Fulmer Logistics was served on April 27, 2015. *Id.* Defendant filed its Original Answer on May 8, 2015. Exhibit “B.” Plaintiff filed its First Amended Petition on April 24, 2015 wherein Plaintiff added Defendant Anthony Bryant and dropped the fictitious John Doe Defendant. Exhibit “C.” On May 20, 2015, Defendants filed the following: (1) Bryant’s Original Answer; (2) Carroll Fulmer Logistics’ First Amended Answer; and (3) a Vacation Letter by Defendants’ counsel. Exhibits “D” – “F.”

IV.

Carroll Fulmer Logistics first received a copy of Plaintiff’s Original Petition when it was served on April 27, 2015. As such, this Notice of Removal is timely filed within 30 days of Defendant’s receipt of Plaintiff’s Original Petition. 28 U.S.C. §1446(b)(1).

V.

Plaintiff’s Original Petition states that Plaintiff seeks to recover actual damages (lost wages and medical treatment) in excess of \$75,000, exclusive of costs and interest. Exhibit “A” at ¶13. This allegation is repeated in Plaintiff’s First Amended Petition. Exhibit “B” at ¶13. Moreover, by pleading that discovery should be conducted pursuant to Level 3 of the Texas Rules of Civil Procedure, Plaintiff indicates its intent to seek an amount in excess of \$100,000. Exhibit “B” at ¶1; *see* Tex. R. Civ. P. 169, 190 (cases for monetary relief of < \$100,000 governed by Level 1 discovery). As such, the amount in controversy exceeds the jurisdictional amount required for removal based on diversity pursuant to 28 U.S.C. §§ 1332 and 1441.

VI.

At and since the time of filing this action, Old Republic was and is now a foreign corporation. Upon information and belief, Old Republic is incorporated in the State of Delaware and maintains its principal place of business in Illinois, and is therefore a citizen of both Delaware and Illinois. Old Republic's insured, Richard Sanford, is a citizen of, and domiciled in, the state of Arkansas. Carroll Fulmer Logistics is incorporated in the State of Nevada and maintains its principal place of business in Florida, and is therefore a citizen of both Nevada and Florida. Defendant Anthony Bryant is a citizen of, and domiciled in, the state of Florida. Accordingly, no Plaintiff is a citizen of the same state as any Defendant. As such, there is complete diversity between Plaintiff (as well as its insured) and all defendants, as is required by 28 U.S.C. §1332.

VII.

Pursuant to 28 U.S.C. §1446(b)(2)(a), all defendants to the state court action consent to the removal of the state court action filed by Old Republic.¹

VIII.

The 393rd District Court of Denton County, Texas, is located within the Sherman Division of the Eastern District of Texas, pursuant to 28 U.S.C. §124. Therefore, venue is proper in accordance with 28 U.S.C. §1441(a) because it is the "district and division embracing the place where such action is pending."

IX.

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81, the following exhibits (including all pleadings, process and orders served upon Defendants) are attached hereto as Exhibits:

Exhibit "A" - Plaintiff's Original Petition (with citation);

Exhibit "B" - Defendant Carroll Fulmer Logistics Corporation's Original Answer;

¹ The undersigned counsel represents all Defendants in the lawsuit.

Exhibit “C” - Plaintiff’s First Amended Original Petition;

Exhibit “D” - Defendant Anthony Bryant’s Original Answer;

Exhibit “E” - Defendant Carroll Fulmer Logistics Corporation’s First Amended Answer;

Exhibit “F” – Vacation Letter filed by Defense Counsel;

Exhibit “G” – Civil Cover Sheet;

Exhibit “H” - Certified Copies of State Court Docket Sheet & Docket Summary; and

Exhibit ‘I’ - List of Parties & Counsel, Jury Requests & Status of Case.

X.

Pursuant to 28 U.S.C. §1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of the Court for the 393rd Judicial District Court of Denton County, Texas, and served on counsel for Plaintiff.

WHEREFORE, Defendant Carroll Fulmer Logistics Corporation prays that the action now pending against it in the 383rd Judicial District Court of Denton County, Texas, bearing Cause No. 15-03028-393, be removed to this Honorable Court for a trial by jury on all issues of fact.

Respectfully submitted,

By: /s/ Jeffrey R. Ross
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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I do hereby certify that on May 22, 2015, a true and correct copy of the above and foregoing document has been forwarded electronically to Plaintiff's counsel of record through the State Court's electronic filing system and through e-mail at tsheen@shaferfirm.com, as well as by certified mail.

/s/ Jeffrey R. Ross
Jeffrey R. Ross